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EXAMINER	
VU, TUAN A	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/741,219	BOSWORTH ET AL.	
	Examiner	Art Unit	
	TUAN A. VU	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12/01/08*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21 and 25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21 and 25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date. _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the Applicant's response filed 12/01/08.

As indicated in Applicant's response, claims 1, 11, 21 have been amended. Claims 1-21, 25 are pending in the office action.

Claim Objections

2. Claims 11, 21 are objected to because of the following impropriety: the language recited as 'effectuate/effectuating execution of the data processing specification, wherein the data processing specified by the data processing specification is executed in accordance with the execution descriptions' amounts to a hard to construe semantic and a rather incongruous syntactic construct. There are no sufficient grounds in the Disclosure to enable one to construe how 'data processing specification' can be executed; nor is it easy to plausible – based on the Specifications, parsing of tagged data specification – to recognize a dual form of execution in terms of 'wherein *data processing … is executed*' and the above 'execution of data processing specification'.

Correction of syntax and/or semantic is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 21 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The Federal Circuit has recently applied the practical application test in determining whether the claimed subject matter is statutory under 35 U.S.C. § 101. The practical application test requires that a " useful, concrete, and tangible result" be accomplished. An "abstract idea" when practically applied is eligible for a patent. As a consequence, an invention, which is

eligible for patenting under 35 U.S.C. § 101, is in the "useful arts" when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result. The test for practical application is thus to determine whether the claimed invention produces a "useful, concrete and tangible result".

The current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101. <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf>

Specifically, claim 21 recites apparatus comprising means for 'receiving …' , for 'analyzing and determining …', and for 'effectuating execution…'; all of which being recited in as means for carrying out the actions recited in claim 1, wherein the means are identified in light of the Specifications as software entities (i.e. accepting processing specifications, analyzing and generating execution order and effectuating execution of data processing being all software steps execution). For example, executing is construed as browser like programmatic engine (e.g. X-Sheet engine) to interpret construct of a markup style sheet or tags, in terms of browser methodologies runtime engine to interpret markup language cannot be construed as hardware means. Hence, the 'means for effectuating execution' falls under the ambit of such browser engine, which is not a hardware apparatus per se. The claim as a whole cannot be construed as any of the four statutory categories. According to the 101 Guidelines, mere listing of 'Functional Descriptive Material' (Annex IV, pg. 52-54) without proper computer medium for storage and/or associated hardware-based engine for carrying out program execution will be treated as non-statutory; that is, it is actually neither one of the categories such as a process, an article of manufacture, a composition of matter or a machine; and further amounts to abstracted software

entities unsupported by hardware in order to realize the software into real world tangible, concrete, and useful output.

Claim 21, for the above two deficiencies, is rejected for leading to non-statutory subject matter.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-21, 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specifications in such a way as to reasonably convey one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, claims 1, 11 and 21 recite 'wherein an *execution order of the execution flow descriptions* is **different** from an *order of the plurality of statements in said first data processing cell specification*'. There is no portion in the disclosure written description that nearly mentions about 'order of the execution flow description' (i) being different from 'an order of the plurality of statements … first data processing cell specification' (ii) nor is there allusion about a comparative distinction of (i) with respect to (ii) . The Specifications describes execution engine 124 utilizing execution flow description to execute some x-cells (Specs: pg. 15) but this does not establish yielding or computing of a tangible 'order of the plurality of statements … first data cell'(ii) in terms that this order (ii) is generated and reasonably in place (emphasis added) so that

subsequent to generating execution flow 212 (Fig. 2) or flow 132 (Fig. 1) --or execution flow order (i) - it would be used for comparison. Hence there is no enabling description regarding a comparison to determine that a pre-generated order (i) -- as recited -- is different from the order (ii) defined or generated from Execution Flow 132 or interdependency information based on the X-sheet Analyzer (Fig. 1, 2; pg. 14). At the time the invention was made, the Inventor has not deemed in possession of a programmatic utility that creates order (i) of plurality of statements (in said first data processing cell specification) then actually compares order (i) with the order (ii) based on the Execution flow 132 such a difference is explicitly determined by said comparing. One of ordinary skill would not be able to make use of the invention when there is no enabling support describing how 2 execution orders are compared such that a actual difference is reasonably yielded (Note: the term 'different' or 'distinct' is nowhere bound in Specifications) . The limitation as to 'different from an order of the plurality of statements in said first data processing cell' will not be given patentable weight, and will be treated with broad interpretation, one of which being as though one order integral to a original text and yielding a (e.g. X-sheet) tree and that another order incurred in the course of processing or validating tree nodes/content are distinct orders.

Claims 2-10, 12-20, 25 are rejected for not remedying to the lack of enabling support of the base claim.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 11-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11, 21 recite 'based on at least in part on interaction or computation references between *said actions or computations specified*' (cl. 11: end of 3rd para; cl. 21: end of 2nd para). There is not sufficient antecedent basis for the plural elements recited as 'said actions or computations specified'. The claim recites a formula included in plurality of statements, but does not explicitly introduce any plurality of 'actions/computations specified'. The limitation will be treated as specifications in statements of first and/or second data processing.

Claims 12-20 are also rejected for failing to remedy to the above indefinite language.

9. Claims 1-21, 25 are rejected for omitting essential elements making it hard for one to make use of the invention.

Specifically, Claim 1 recites 'execution order of … plurality of statements specified *by said first data processing cell*' (cl. 1: 2nd para) and 'different from … order of the plurality of statements *in said first data processing cell*' (cl. 1, end third para); and along with claims 11, 21 amount to not provide definite teaching of the invention for omitting essential elements. It is not clear how only first data processing cells enable relationship or execution flow to be determined because first data specifications are recited as having data depending on second data specification (see claim 1: 1st para) and considering just 'first data specification cell'(i.e. dropping *second data specification*) would be deemed indefinite for one to make use of the invention, because one would have to exert **undue experimentation** to arrive at establishing data dependency or order of dependency based on just one type of cells.

Claims 11, 21 also recite describing 'execution order of *said plurality of said first data processing cell*' (cl. 11: 4th para; cl. 21, 3rd para) and 'different from an *order of the plurality of statements specified by said first data processing cell specification*' (cl. 11, 4th para; cl. 21, 3rd para) and are indefinite as to reasonably describe the purported invention. The above inadequate depiction of the claimed invention or omission of essential elements would be treated with broad and reasonable interpretation.

Claims 2-20, 25 are equally rejected because of the above failing to adequately define the invention by omitting essential elements.

Claims Rejections – 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1-21, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over W3C, 'XML Path Language (Xpath)' and 'XSL Transformation (XSLT) Version 1.0; *W3C Recommendation 16 November 1999*, respectively < http://www.w3.org/TR/1999/REC-xpath-19991116 > and < http://www.w3.org/TR/xslt> (hereinafter W3C – submitted in previous Office Action) in view of Renner et al., USPN: 6,993,657

As per claim 1, W3C discloses a method of computing comprising:

receiving at execution time, a data processing specification having a first and a second data processing cell specification, specifying a first and a second data processing cell respectively, with each data processing cell specification having a plurality of statements

including a formula specifying an action or computation (e.g. *template match* - sec 7.1, pg. 28, 32; sec 7.6, pg. 35-36), the first data processing cell having a data dependency on the second data processing cell, and specified in a manner to be analyzed before the second data processing cell (e.g. *<xsl: value-of select ...this expression is evaluated ... call to a string function … string-value of the created node, match = "person", @given-name, @family-name* - sec 7.6.1, pg. 36 – Note: analyzing *value-of select* to obtain string-value or to yield *given-name*, *family-name* reads on second cell whose value is what processed first cell *person* depends on, first cell identified as action *template match*).

analyzing in real time, the data processing specification, including the first and then the second data processing cell specification, to determine execution order of said plurality of statements specified by said first data processing cell specifications, based at least in part on interaction or computation references between said actions first and second data processing cells (sec 7.3, 7.6.1, pg 35-37; value= … value of select -sec 7.7, pg. 38; sec 8, pg. 43);

generating one or more execution flow descriptions describing (*result tree* – sec 7, pg. 26-42; template which can be instantiated into *a result tree* – sec 1 Introduction, pg. 4) the execution order of said plurality of statements of said first data processing cell specification based on the results of the determination,

wherein an execution order of the execution flow descriptions is different from an order of the plurality of statements in said first data processing cell specification (sec 7.2*, result tree, stylesheet tree*; sec 7.3 – pg 33-pg 34 - Note: processing of tree resulting from Xstylesheet template with validation, and processing of tags of original text to yield a result tree read on two processing going different paths or order – see USC 112, 1st para); and

upon completion of the analyzing and generating, effectuating the data processing specified by the data processing specification in accordance with the execution flow descriptions (e.g. *XSLT processor … outputting the result tree as XML … result element written in the stylesheet as … would be output as …CDATA* - sec 16.1, pg. 65-66; *it would produce the following result <?xml version … </html>* pg. 68; D.2 : *HTML output is:* pg. 86; *data into VRML* - pg. 88).

W3C does not explicitly disclose first and second cell specification being unnested with respect to each other.

In a similar XSLT scripting approach to render XML or HTML output as W3C, Renner discloses the same first cell specification including a action/computation (Table 4, *<FORM Name> … xsl:apply-templates select ="custom" … </FORM>*, lines 16-21; *<xsl:template match = "custom" … xsl:apply-template select = "input[…] … </xsl:template>* - lines 24-31); and second cell specification, such that first data processing cell having a data dependency on the second data processing cell, and specified in a manner to be analyzed before the second data processing cell (e.g. second cell group: lines 33-35, 36-38, 39-41, 42-44, 45-47 – Note: line 26 processed before line input of name type being resolved – value-of select - in lines 34, 37, 40,43, 46); with disposition of first and second cell specification such that first and second cell are unnested with respect to each other. Based on W3C separating of template group cells so that action required from the first cell group necessitates resolving in a distinct second cell group (see <template name= number-block>; < template match … call-template name=numbered-block> sec 11.6, pg. 51-52, bottom; D.1: *xsl: template match = para; xsl: template match = note* pg. 83) it would have been obvious for one skill in the art at the time the invention was made to

implement XSLT template matching operations as purported in W3C and grouping as above for action or computation of first cell such that value resolving in second cell would fulfill the data dependency in the first cell so that first and second cell are clearly unnested with respect one another as in Renner because this would yield greater flexibility and clarity to W3c intended group of actions needed to resolve a larger number or variety of type of data/parameter or value via implementing numerously distinct second group of cells, the resolution of values thereof would fulfill the data required to resolve the other distinct first group of cells, as this has been perceived from the above two similar approaches.

As per claim 2, W3C discloses wherein each of said first and second data processing cell specifications is delineated by a beginning and an ending data processing cell specification tag (e.g. sec 11.6, pg. 51-52, bottom).

As per claim 3, W3C discloses wherein said first data processing cell specification has a formula referencing a value of said second data processing cell specification (sec 11.6, pg. 51-52, bottom; *template match … select value-of* - sec 7.6.1, pg 36; sec 7.7, pg. 38).

As per claims 4-5, W3C discloses wherein one or both of said first and second data processing cell specifications comprise one or more attribute specifications specifying one or more attributes (e.g. sec 7.6.2 Value Templates, pg. 37; *number format =" {$format}"*; *with-param name = "format"*, pg. 52 top) of the corresponding data processing cell(s); wherein the first data processing cell has a first attribute referencing a second attribute of said second data processing cell.

As per claim 6, W3C discloses wherein said second data processing cell specification comprises a reserved mnemonic for providing input (sec 7.6.2: $image-dir ; {size/@width} pg.

37; *item[position() = $n]*, pg. 49) to the data processing specified by the data processing specification.

As per claim 7, W3C discloses wherein said first data processing cell specification is a reserved output cell specification specifying output of the data processing specified by the data processing specification (*xsl: output, xsl: output method* – pg. 7; chp. 16.1, 16.2 pg. 64-68; *xsl:output* pg. 75).

As per claim 8, W3C discloses wherein said second data processing cell specification comprises a conditionally executed formula (e.g. *<xsl: if... />* pg. 74*; <xsl: otherwise ... />*– pg. 75).

As per claims 9-10, W3C discloses wherein said data processing specification further includes one or more global attributes (e.g. *xsl: stylesheet version ="1.0" xmls:xsl="http://... xmlns="http://www.w3.org/1999... /strict"*> pg. 7, 9) specifying one or more global processing characteristics for the specified data processing; wherein said one or more global attributes include a global attribute specifying a format for providing the specified data processing with an HTTP request (e.g. <xsl: stylesheet version="1.0" xmlns=xsl="http:// ... /strict"> pg. 83).

As per claim 11, W3C discloses an apparatus comprising:

at least one storage unit having stored thereon programming instructions designed to: receive at execution time, a data processing specification having a first and a second data processing cell specification, specifying a first and a second data processing cell, with each data processing cell specification having a plurality of statements including a formula specifying an action or computation (e.g. *template match* - sec 7.1, pg. 28, 32; sec 7.6, pg. 35-36), the first data processing cell having a data dependency on the second data processing cell, and specified in a

manner to be analyzed before the second data processing cell (e.g. *<xsl: value-of select …this expression is evaluated … call to a string function … string-value of the created node, match = "person", @given-name, @family-name* - sec 7.6.1, pg. 36 – Note: analyzing *value-of select* to obtain string-value or to yield *given-name*, *family-name* reads on second cell whose value is what processed first cell *person* depends on, first cell identified as action *template match*);

analyze in real time, the data processing specification in a first pass through of the data processing specification to determine an execution order of said plurality of statements specified by said first and second data processing cell specifications, based at least in part on interaction or computation references between said actions or computations specified (sec 7.3, 7.6.1, pg 35-37; value = … value of select -sec 7.7, pg. 38; sec 8, pg. 43),

generate one or more execution flow descriptions describing the execution order of said plurality of statements of said first data processing cell specification (*result tree* – sec 7, pg. 26-42; template which can be instantiated into a result tree – sec 1 Introduction, pg. 4) based on the results of the determination,

wherein an execution order of the execution flow descriptions is different from an order of the plurality of statements in said first data processing cell specification (sec 7.2*, result tree, stylesheet tree*; sec 7.3 – pg 33-pg 34 - Note: processing of tree resulting from Xstylesheet template with validation, and processing of tags of original text to yield a result tree read on two processing going different paths or order – see USC 112, 1st para); and

effectuate execution of the data processing specification the data processing, wherein the data processing specified by the data processing specification is executed in accordance with the execution flow descriptions (e.g. *XSLT processor … outputting the result tree as XML … result*

element written in the stylesheet as … would be output as …CDATA - sec 16.1, pg. 65-66; *it would produce the following result <?xml version … </html>* pg. 68; D.2 : *HTML output is:* pg. 86; *data into VRML* - pg. 88 – Note: processing the xsl tree to yield output in XML, HTML reads on processing after result tree is completed);

and at least one processor coupled to said at least one storage unit to execute said programming instructions (*XSLT 1.0 processor* – sec 2.5, pg. 10 bottom; sec 2.1: XSLT processor – pg 6).

W3C does not disclose disclose first and second cell specification being unnested with respect to each other. But this limitation has been addressed in claim 1.

As per claims 12-20, refer to claims 2-10, respectively.

As per claim 21, W3C discloses an apparatus comprising means for:

receiving at execution time, a data processing specification having a first and a second data processing cell specifications, unnested with respect to each other, specifying a first and a second data processing cell, with each data processing cell specification having a plurality of statements including a formula specifying an action or computation (refer to claim 11), the first data processing cell having a data dependency of the second data processing cell, and specified in a manner to be analyzed first (refer to claim 11);

analyzing in real time, the data processing specification in a first pass through of the data processing cell specification, to determine execution order of said plurality of statements specified by said first and second data processing cell specifications (refer to claim 11) based at least in part on interaction or computation references between said actions or computations specified;

generating one or more execution flow descriptions describing (refer to claim 11) the execution order of said plurality of statements of said first data processing cell specification based on the results of the determination,

wherein an execution order of the execution flow descriptions is different from an order of the plurality of statements in said first data processing cell specification (sec 7.2*, result tree, stylesheet tree*; sec 7.3 – pg 33-pg 34 - Note: processing of tree resulting from Xstylesheet template with validation, and processing of tags of original text to yield a result tree read on two processing going different paths or order – see USC 112, 1st para); and

effectuating execution of the data processing specification, wherein the data processing specified by the data processing specification is executed in accordance with the execution flow descriptions (refer to claim 11).

As per claim 25, W3C does not disclose wherein the execution flow descriptions comprise interdependency information representing by a directed graph; but since XML elements amount to a hierarchical structure being basically a directed tree, the result tree by W3C entails a structure similar to XML elements (result tree – sec 1, Introduction pg. 4 – Note: conformance in namespace between XSLT language and XML language – see sec 2.1 pg. 6 - reads on tree having directed structure because XML parse tree is always directed). It would have been obvious for one skill in the art at the time the invention was made to the result tree as set forth above so that this tree is directed graph, because of the compliancy in namespace and the deriving of XML document from parsing the result tree (e.g. sec 16.1, pg. 65-66; *it would produce the following result <?xml version ... </html>* pg. 68)

Response to Arguments

12. Applicant's arguments filed 12/01/08 have been fully considered but they are not persuasive because they are based on the changes in the language of the claim, which have necessitated readjustment in the Office action. In all, the claims will stand rejected and the arguments remain moot in light of new grounds effectuated in response to the latest Amendments.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (571) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis Bullock can be reached on (571)272-3759.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 (for non-official correspondence - please consult Examiner before using) or 571-273-8300 (for official correspondence) or redirected to customer service at 571-272-3609.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan A Vu/

Primary Examiner, Art Unit 2193

January 20, 2009